**THE HIGH COURT OF DELHI AT NEW DELHI**

% Judgment delivered on: 02.07.2007

+ **CRL REV. P. No.799/2005**

**RAVINDER KUMAR SEHRAWAT @ R.K. SEHRAWAT** ... Petitioner

- versus -

**CBI** ... Respondent

**Advocates who appeared in this case:**

For the Petitioner : Mr R. N. Mittal, Sr Advocate with Mr Puneet Mittal and Ms Shahida Begum

For the Respondent/CBI : Mr R.M. Tiwari

**CORAM:-**

**HON'BLE MR JUSTICE BADAR DURREZ AHMED**

1. Whether Reporters of local papers may be allowed to see the judgment ? Yes

2. To be referred to the Reporter or not ? Yes

3. Whether the judgment should be reported in Digest ? Yes

**BADAR DURREZ AHMED, J**

1. This revision petition is directed against the order on charge dated 02.09.2005 and the charge framed on 14.09.2005. The petitioner has been charged of having committed offences under Sections 7, 13 (2) read with Section 13 (1) (d) of the Prevention of Corruption Act, 1988. The petitioner has also been charged of the offences under Section 120-B of Indian Penal Code, 1860 for having conspired with co-accused (Ram Singh Rawat). In substance, the charge against the petitioner and the co-accused (Ram Singh Rawat) is that from 1997 till 11.06.2003, the petitioner while working as UDC

in the office of the Deputy Assessor and Collector, House Tax, MCD at Green Park allowed co-accused Ram Singh Rawat, a private person, to illegally sit on his seat and conduct official work for him and that the co-accused (Ram Singh Rawat) had demanded and accepted Rs.5,000/- from the complainant (Shri Alok Gupta) on behalf of the petitioner on 11.06.2003 as illegal gratification for issuing a "No Objection Certificate" (NOC) to the complainant (Mr Alok Gupta) to reconstruct his house. Since it is alleged that the petitioner and the co-accused conspired in the act an offence punishable under Section 120-B IPC was allegedly committed by them. In addition, the petitioner, being a public servant, has also been charged, as mentioned above of having committed offences under Section 7 and 13 (2) read with Section 13 (1) (d) of the Prevention of Corruption Act, 1988.

2. It was contended by Mr Mittal, the learned senior counsel appearing on behalf of the petitioner, that the complainant wanted an NOC for reconstruction of his house at J-263, Saket. As per the allegations, the co-accused (Ram Singh Rawat) demanded money for the issuance of the NOC. He held himself out to be a clerk in the department. The complainant lodged a complaint with the CBI based on a tape-recorded conversation which the complainant had with the co-accused (Ram Singh Rawat). A trap was laid by the officials of CBI and the co-accused (Ram Singh Rawat) was, after having

been paid a sum of Rs.5,000/- on 11.06.2003, apprehended on the spot. He was produced before the Special Judge on 12.06.2003.

3. Mr Mittal drew my attention to the disclosure statement of co-accused (Ram Singh Rawat) recorded on 11.06.2003. In the disclosure statement, it is stated that the co-accused (Ram Singh Rawat) had developed close proximity with the petitioner as also with one Mr S.K. Sharma who was posted as the Assistant Assessor and Collector in the concerned office. It is also stated in the disclosure statement that he (R.S. Rawat) started assisting the petitioner (R.K. Sehrawat) in his official work as the latter was overburdened. It is stated that R.S. Rawat used to maintain the files of the petitioner (R.K. Sehrawat) and was very well acquainted with the record in his possession. It was also stated that R.K. Sehrawat had been transferred out of the office in May, 2003, but he had not given charge to the new person. Mr Mittal specifically drew my attention to the following portion of the disclosure statement:-

> "I used to give the amount of bribe taken from various persons to Shri R.K. Sharma, A&C who used to give my share to me and also to other officials of the office including Sh. R.K. Sehrawat. I don't know whether Sh. S.K. Sharma AA&C used to give the amount of bribe or a part of that to Dy. Assessor & Collector."

The above portion of the disclosure statement was stressed upon by Mr Mittal to indicate that the key person was Mr S.K. Sharma, but Mr S.K. Sharma was not being prosecuted by the CBI. Mr Mittal then referred to the statement made by R.S. Sehrawat before the Special Judge on 12.06.2003. The statement as recorded in the order of the Special Judge reads as under:-

> "I have heard the Ld. P.P. as well as the accused and his Counsel. The accused states that he used to collect money and hand over to AA&C Mr. S.K. Sharma and used to retain a small share out of it which never extended Rs.500/-. CBI wants custodial interrogation of the accused to find out involvement of other persons and to confront him with the persons named by him."

4. Reading the disclosure statement as well as the statement made before the Special Judge, Mr Mittal submitted that while in the disclosure statement, both the names of Mr R.K. Sehrawat (the petitioner herein) and Mr S.K. Sharma have been mentioned, in the statement made before the Special Judge, only the name of Mr S.K. Sharma was mentioned. He submitted that the statement made before a judicial officer would have greater credence than a disclosure statement recorded by the CBI officials. Accordingly, Mr Mittal submitted that there was nothing on record to suggest that the petitioner was involved in the alleged offences.

5. He further submitted that the petitioner had been transferred out of the office on 27.05.2003. He was transferred to the Legal Branch, MCD, Chandni Chowk, Town Hall. The order of transfer had been issued on

27.05.2003 and was received by the petitioner on the same day. He submitted that as per the attendance register maintained at the Town Hall, the petitioner had attended office on 28.05.2003 onwards. Therefore, according to Mr Mittal, the petitioner having been transferred w.e.f. 27.05.2003, had no connection with the alleged bribe accepted by the co-accused (R.S. Rawat) on 11.06.2003.

6. According to Mr Tiwari, who appeared on behalf of the CBI, the charge has been properly framed and no interference is called for. He submitted that during investigation sufficient documentary and oral evidence was collected to establish that co-accused (Ram Singh Rawat) had demanded and accepted bribe from the complainant (Sh. Alok Gupta) on behalf of the present petitioner (R.K. Sehrawat). He further submitted that the application for grant of the NOC was not processed by the petitioner in conspiracy with Ram Singh Rawat even after the approval and signature of the competent officer (S.K. Sharma) had been obtained on 26.05.2003. He submitted that the NOC was not despatched till 10/11.06.2003 when, in the normal course, the petitioner ought to have despatched the same within a day or two of the approval by the competent officer. The NOC was despatched and handed over to the complainant only after receipt of the bribe amount and till such time, the same was in the possession of the co-accused (R.S. Rawat). Mr Tiwari submitted that insofar as R.S. Rawat was concerned, there was sufficient material to implicate him inasmuch as he was caught red-handed in the trap

which was laid by the CBI officials. It is also clear that R.S. Rawat was a private person and was not discharging any official duties. His presence in the concerned office and his working therein could not have been done without the complicity of the petitioner. He further submitted that there was sufficient documentary and oral evidence to show that R.S. Rawat was specifically working for and assisting the petitioner in his official work. The documentary evidence which was referred to was the charge list which was suspected to be in the handwriting of R.S. Rawat and the same was collected by the successor in office of the petitioner who ultimately took charge from the petitioner. A note dated 08.04.2002 was also collected during investigation which contained notings of Mr S.K. Sharma to the effect that no outsider was to assist any Inspector / Official. But, contrary to this note, the accused (R.S. Rawat) was assisting the petitioner in the conduct of his official work. Notices issued during 2000 – 2003 to tax payers of 11 different properties falling under the jurisdiction of the petitioner herein were also collected during investigation. These notices were suspected to be in the handwriting of the co-accused (R.S. Rawat). Similar other pieces of evidence were also referred to by Mr Tiwari to show that there was a clear connection between co-accused (R.S. Rawat) and the petitioner and that they were working in unison. He also referred to the circumstance that the petitioner had been using a mobile phone No 9810263997 which was owned by co-accused (R.S. Rawat) since July, 2002. This mobile phone was recovered from the petitioner during the search conducted at his

residence. A driving licence of R.S. Rawat was also recovered from R.S. Rawat. The address given in the said driving licence was that of the present petitioner. It was further mentioned by Mr Tiwari that the documents which are suspected to be in the handwriting of co-accused (R.S. Rawat) had been sent to the CFSL, New Delhi for its opinion and the handwriting expert has given a positive opinion thereon.

7. Mr Tiwari also submitted that the petitioner cannot take the plea that he did not demand any money from the complainant inasmuch as he had already been relieved from the Mehrauli Sub Zone Office on 27.05.2003. He submitted that such a plea could not be taken because there was sufficient evidence to indicate that the petitioner, although he had joined at Town Hall, had not handed over charge to his successor at the Mehrauli Sub Zone Office till 11.06.2003. It was also contended by Mr Tiwari that there was evidence to establish that the demand was raised by the co-accused (R.S. Rawat) on behalf of the petitioner because R.S. Rawat had been working from the seat of the petitioner and all the files and keys of the almirah pertaining to the petitioner were in the possession of R.S. Rawat till 11.06.2003.

8. Considering the arguments advanced by the counsel for the parties and upon examining the material on record, I am of the view that the learned Special Judge has correctly framed the charges. All these factors which have

been stated by the learned counsel for the petitioner have been considered by the learned Special Judge. In ***Union of India v. Prafulla Kumar Samal and Another*****: AIR 1979 SC 366**, the Supreme Court observed that a judge while considering the question of framing of charges has the undoubted power of sifting and weighing the evidence for the limited purpose of finding out whether or not a prima facie case has been made out. The Supreme Court further observed that where the material placed before the court discloses a grave suspicion against the accused which has not been properly explained, the court would be fully justified in framing a charge and proceeding with the trial. Taking a *prima facie* view of the documentary evidence in the present case, it cannot be said that the petitioner was not at all involved in the alleged offences. It is also not a case of a slight suspicion. Since the co-accused (Ram Singh Rawat) could not have functioned in the manner he did without the active complicity of the petitioner, there is a grave suspicion that the petitioner was involved in the commission of the alleged offence. This is, of course, a prima facie view and it may very well by proved wrong in the course of the trial. At this stage, however, the petitioner cannot be discharged. Furthermore, the submission that Mr S.K. Sharma has not been prosecuted is also no ground for not proceeding against the petitioner. What has to be seen is whether there is sufficient material against the present petitioner for proceeding further. This is entirely independent of the circumstance that another person, against whom some material is alleged, has not been prosecuted. It is also not the case that

unless and until Mr S.K. Sharma is included as an accused, there can be no allegation against the petitioner.

9. Considering the circumstances mentioned above, I see no reason for interfering with the impugned order. It is made clear that the views expressed in this order are only of a *prima facie* nature and are not to be looked into in the course of the trial of the case.

This revision petition is dismissed.

**BADAR DURREZ AHMED**
**( JUDGE )**

**July 02, 2007**
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